



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1998

Mr. Kerry L. Russell
Attorney at Law
P.O. Box 658
Tyler, Texas 75710

OR98-2509

Dear Mr. Russell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119133.

The Walnut Grove Water Supply Corporation (the "corporation") received a request for the corporation's voting members list along with their addresses. You contend that the requested information is not public information subject to the Open Records Act or in the alternative that it is excepted from required public disclosure by a right of privacy. We have considered your arguments and have reviewed the sample documents that you have submitted.¹

We presume, for purposes of this ruling, that the corporation is a governmental body subject to the Open Records Act. Gov't Code § 552.003(1)(A)(ix) (governing body of a nonprofit corporation organized under section 67.001 of the Water Code (formerly article 1434a V.T.C.S.) that provides water supply service and is exempt from ad valorem taxation is a governmental body). *See* Attorney General Opinion No. JM-596 (1986) (nonprofit water supply corporation which is subject to sections 15.006, 16.002, and 17.002 of the Water Code is a governmental body). Public information in the possession of a governmental body must be made available to the public unless it is excepted from

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

disclosure. Gov't Code §§ 552.007, .021. You initially claim that the corporation need not release the requested membership list because it is not public information. Section 552.002 of the Government Code defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." You argue that the list is not required to be kept or maintained by the corporation under a law or ordinance. It appears, nonetheless, that the corporation maintains the requested membership list and addresses in connection with the transaction of official business.² We conclude, therefore, that the requested information is public information subject to public disclosure.

You contend that even if the information is public information, it is excepted from disclosure because of right of privacy. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).

We first point out that information is not confidential under the Open Records Act simply because the party submitting it anticipates or requests that it be kept confidential. Open Records Decision No. 479 (1987); 180 (1977). Furthermore, this office has found that disclosure of a person's name, home address, and phone number is not an invasion of privacy. Open Records Decision No. 554 (1990). Home addresses and phone numbers are not "intimate" information; and therefore, it is not protected from disclosure by common law privacy. Open Records Decision No. 478 (1987); 455 (1987); *see* Open Records Decision No. 318 (1982) (names and present addresses of residents of public housing are not excepted by constitutional or common law privacy). Assuming that the corporation is a governmental body, the requested list of voting members' names and addresses must be released under the Open Records Act.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

² The requestor urges that the requested information is maintained in compliance with the corporation's by-laws and must be released to them. Because we make a determination under the Open Records Act, we do not address this issue.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref: ID# 119133

Enclosures: Submitted documents

cc: Ms. Audrey Cameron
Mr. Bob Cameron
364 Royal Circle
Whitehouse, Texas 75791
(w/o enclosures)